THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO.5070 OF 2007

Between:

Y.Radha Krishna

……..Petitioner

and

A.P.S.R.T.C., represented by its Depot Manager, Simhachalm Depot, Simhachalam

……

Respondent

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO.5070 OF 2007

O R D E R:

This writ petition is filed seeking writ of Mandamus declaring the

action of the respondent in passing the impugned order, dated 07.11.1995 imposing punishment of deferment of annual increment for a period of one year with cumulative effect.

The case of the petitioner is that he was appointed as a casual Driver in the respondent Corporation in the year 1992 and subsequently, his services were regularized in the post of Driver, Grade-II in the year 1994. While so, he was issued with a charge sheet, dated 08.08.1995 alleging that on 03.06.1995, on route No.28, he drove the vehicle bearing No.AP 9Z-7830 in a rash and negligent manner with lack of anticipation and hit a lorry bearing No.AP 31T-4457, which was going ahead at Balajinagar, resulting in the vehicle bearing No.9Z-7830 heavy damages to a tune of Rs.2,600/-. On 08.09.1995, the petitioner submitted his explanation, denying the charges leveled against him. However, without considering the same and without conducting a domestic enquiry, the respondent-Manager issued the impugned final orders, dated 07.11.1995, imposing major penalty of deferment of annual increments for a period of one year with cumulative effect and further called upon the petitioner to show cause as to why the proposed penalty of debiting an amount of Rs.1,000/- should not be imposed. Hence, the present writ petition is filed questioning the action of the respondent in imposing the major punishing without conducting a Departmental Enquiry.

The learned counsel for the petitioner contends that the

punishment of deferment of annual increments for a period of one year with cumulative effect is a major penalty and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the Andhra Pradesh State Road Transport Corporation Employees' (CC & A) Regulations. In support of his contention, he placed reliance on a judgment of the Supreme Court in **KULWANTH SINGH GILL VS. STATE OF PUNJAB**[1]**.** The learned counsel for the petitioner also relied on a judgment of this court in W.P.No.20609 of 1999, dated 07.12.2005, which is a similar background of facts and circumstances.

On the other hand, the learned Standing Counsel appearing on behalf of the respondent-Corporation vehemently opposed the said contention and submitted that the respondent after careful consideration of the entire evidence available on record together with the explanation submitted by the petitioner passed the impugned order. Hence, there are no reasons to interfere with the same.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation.

It is an admitted fact that the respondent imposed punishment of deferment of annual increment for a period of one year with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court

in KULWANTH SINGH GILL'S CASE (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment was imposed without conducting regular departmental enquiry violating the judgment of Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to the respondent to pass fresh orders. But to avoid further litigation in the matter, I deem it appropriate to dispose of the writ petition with the following direction:

The impugned order, dated 07.11.1995 passed by the respondent imposing the punishment of stoppage of annual increment for a period of one year with cumulative effect, is modified to that of stoppage of one increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

N.V.RAMANA J.,

Dt.13.03.2007
tjs

[1]) 1990 (1) LLJ 635.